



*CITY OF WILLOUGHBY HILLS
35405 CHARDON ROAD
WILLOUGHBY HILLS, OH 44094*

COMMUNITY REINVESTMENT ACT CONTRACT AGREEMENT

27853 Chardon Road LLC (Property Owner),
Produce Packaging, Inc. (Operator)
&
The City of Willoughby Hills

This agreement made and entered into by and between the City of Willoughby Hills, Ohio, a municipal corporation, with its main offices located at 35405 Chardon Road, Willoughby Hills, Ohio, 44094 (hereinafter referred to as "Willoughby Hills") and 27853 Properties, LLC, an Ohio limited liability company, located at 16432 Stoneridge Road, Chagrin Falls, Ohio, 44023 (hereinafter referred to as "Property Owner"), WITNESSETH:

NOTE: All businesses and/or individuals required to make an investment, to create or retain jobs, or to receive a tax benefit as part of this project must be identified and be a party to this agreement.

WHEREAS, the City of Willoughby Hills, has encouraged the development of real property and the acquisition of personal property located in the area designated as a Community Reinvestment Area; and

WHEREAS, Property Owner is desirous of renovation of the current structure (formerly Sam's Club), approximately 150,000sq. ft. to be operated by Operator at 27853 Chardon Road on lot number 31A0080000230 (hereinafter referred to as the "PROJECT") within the boundaries of the aforementioned Community Reinvestment Area, provided that the appropriate development incentives are available to support the economic viability of said PROJECT; and

WHEREAS, the Council of the City of Willoughby Hills, Ohio, by Ordinance 2005-12 adopted on February 10, 2005, designating the area as a "Community Reinvestment Area" pursuant to Chapter 3735 of the Ohio Revised Code; and

WHEREAS, the Council of the City of Willoughby Hills, Ohio, by Ordinance 2006-12

adopted on March 9, 2006, extending the area designated as a "Community Reinvestment Area" pursuant to Chapter 3735 of the Ohio Revised Code; and

WHEREAS, effective February 22, 2005, the Director of Development of the State of Ohio determined that the aforementioned area designated in said Ordinance 2005-12 contained the characteristics set forth in Section 3735.66 of the Ohio Revised Code and confirmed said area as a Community Reinvestment Area under said Chapter 3735; and

WHEREAS, Property Owner, having the appropriate authority for the stated type of project, is desirous of obtaining incentives available for the development of the PROJECT in said Community Reinvestment Area under Chapter 3735 of the Ohio Revised Code; and

WHEREAS, Fritz Bros. Properties, LLC submitted a proposed agreement application (herein attached as Exhibit A) to the City of Willoughby Hills, said application (hereinafter referred to as "APPLICATION") and subsequent to such APPLICATION, Fritz Bros. Properties, LLC formed the Property Owner as sole owner to acquire the Project; and

WHEREAS, Property Owner will pay the required one-time State application fee of \$750.00 made payable to the Ohio Development Services Agency with the application to be forwarded to said department with a copy of the Final Agreement; and

WHEREAS, The City of Willoughby Hills has investigated the APPLICATION and has recommended the same to the Council of the City of Willoughby Hills on the basis that Property Owner is qualified by financial responsibility and business expertise to create and preserve employment opportunities in said Community Reinvestment Area and improve the economic climate of the Willoughby-Eastlake School District; and

WHEREAS, the project site as proposed by Property Owner, is located in the Willoughby-Eastlake School District. The Board of Education of the Willoughby-Eastlake School District has been notified in accordance with Section 5709.83 and has been given a copy of the APPLICATION; and

WHEREAS, pursuant to Section 3735.67(A) and in conformance with the format required under Section 3735.671(B) of the Ohio Revised Code, the parties hereto desire to set forth their agreement with respect to matters hereinafter contained:

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and the benefit to be derived by the parties from the execution hereof, the parties herein agree as follows:

- 1) Property Owner shall renovate approximately 150,000 sq. ft. building at 27853 Chardon Road, Willoughby Hills, Ohio. Said facility is located on former PPN 31A0080000180 (which is now PPN31A0080000230 after a lot split) as the same is known and designated on the Auditor's list as 27853 Euclid-Chardon Road, but is one and the same in the City of Willoughby Hills, Ohio.

The PROJECT will involve a total investment by the Property Owner and the Operator of \$8,077,206 (eight million, seventy-seven thousand two hundred and six), which consists of \$3,200,000 (three million two hundred thousand) in "Acquisition of land/building"; \$3,377,206 (three million three hundred seventy-seven two hundred

and six) in "Improvements to existing building"; and \$1,500,000 (one million five hundred) in "Machinery and Equipment".

The PROJECT will begin on or about May 2019, and all acquisition, construction and installation will be completed by approximately first quarter of 2020.

- 2) Property Owner and the Operator and any other tenants in the Project shall make good faith effort to collectively create within a time period not exceeding first quarter 2020 after the completion of renovation of the aforesaid facility, three hundred and eight (308) full-time equivalent (35 hours per week) jobs relocated and forty (40) new full-time equivalent jobs by December 31, 2022.

The job creation period begins January 1, 2019 and all jobs will be in place by December 31, 2022.

- 3) Property Owner shall provide to the proper Tax Incentive Review Council any information reasonably required by the council to evaluate the property owner's compliance with this agreement, including returns filed pursuant to Section 5711.02 of the Ohio Revised Code, if requested by the council."
 - a. Property Owner shall maintain a membership in the Willoughby Western Lake County Chamber of Commerce.
- 4) The City of Willoughby Hills hereby grants a tax exemption for real property improvements made to the PROJECT site pursuant to Section 3735. 67 of the Ohio Revised Code and shall be in the following amounts:
 - a. Ten (10) years at 50% tax abatement which commences the first year for which the real property would first be taxable were that property not exempted from taxation.

Property Owner must file the appropriate tax forms with the County Auditor to effect and maintain the exemptions covered in this agreement.

- 5) Property Owner shall pay an annual fee equal to the greater of one percent of the dollar value of incentives offered under this agreement for each year or five hundred dollars: provided, however, that if the value of the incentives for each year exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars.

The Fee shall be made payable to the City of Willoughby Hills once per year for each year this agreement is effective on the days and in the following forum cash or certified check. The fee is to be paid to the City Finance Director and made payable to "The City of Willoughby Hills." This fee shall be deposited in a special fund created for such purpose and shall be used exclusively for the purpose of complying with Section 3735.671(D) of the Ohio Revised Code and by the tax incentive review council created under Section 37353.671(D) of the Ohio Revised Code exclusively for the purposes of performing the duties prescribed under that section.

- 6) Property Owner shall pay such real and tangible personal property taxes as are not exempted under this agreement and are charged against such property and shall file all tax reports and returns as required by law. If Property Owner fails to pay such taxes or file such returns and reports, and such failure continues for 60 days past the due date, all incentives granted under this agreement are rescinded beginning with the year for which such taxes are charged or such reports or returns are required to be filed and thereafter.
- 7) The City of Willoughby Hills shall perform such acts as are reasonably necessary or appropriate to effect, claim, reserve, and maintain exemptions from taxation granted under this agreement, including without limitation, joining in the execution of all documentation and providing any necessary certificates in connection with such exemptions.
- 8) If for any reason the Community Reinvestment Area designation expires, the Director of the Ohio Development Services Agency revokes certification of the zone, or the City of Willoughby Hills revokes the designation of the zone, entitlements granted under this agreement shall continue for the number of years specified under this agreement, unless Property Owner materially fails to fulfill its obligations under this agreement and Willoughby Hills terminates or modifies the exemptions from taxation granted under this agreement.
- 9) If Property Owner materially fails to fulfill its obligation under this agreement, or if the City of Willoughby Hills determines that the certification as to delinquent taxes required by this agreement is fraudulent, the City of Willoughby Hills may terminate or modify the exemptions from taxation granted under this agreement and may require the repayment of the amount of taxes that would have been payable had the property not been exempted from taxation under this agreement; provided, however, as to any failure to attain the jobs targets in paragraph 2) above, the repayment of taxes required above relating to that failure will only apply to the years when those targets are not met.
- 10) Property Owner hereby certifies that at the time this agreement is executed, Property Owner does not owe any delinquent real or tangible personal property taxes to any taxing authority of the State of Ohio, and does not owe delinquent taxes for which Property Owner, is liable under Chapter 5733., 5735., 5739., 5741., 5743., 5747., or 5743, of the Revised Code, or, if such delinquent taxes are owed, Property Owner, currently is paying the delinquent taxes pursuant to an undertaking enforceable by the State of Ohio or an agent or instrumentality thereof, has filed a petition in bankruptcy under 11 U.S.C.A. 101, et seq., or such a petition has been filed against Property Owner. For the purposes of the certification, delinquent taxes are taxes that remain unpaid on the latest day prescribed for payment without penalty under the chapter of the Revised Code governing payment of those taxes.
- 11) Property Owner affirmatively covenants that it does not owe (1) any delinquent taxes to the State of Ohio or a political subdivision of the State; (2) any monies to the State or a State agency for the administration or enforcement of any environmental laws of

the State; and (3) any other monies to the State, a State agency or a political subdivision of the State that are past due, whether the amounts owed are being contested in a court of law or not.

- 12) Property Owner, and the City of Willoughby Hills acknowledge that this agreement must be approved by formal action of the legislative authority of Willoughby Hills as a condition for this agreement to take effect. This agreement takes effect upon such approval.
- 13) The City of Willoughby Hills has developed a policy to ensure recipients of Community Reinvestment Area tax benefits practice non-discriminating hiring in its operations. By executing this agreement, Property Owner is committing to following non-discriminating hiring practices acknowledging that no individual may be denied employment solely on the basis of race, religion, sex, disability, color, national origin or ancestry.
- 14) Exemptions from taxation granted under this agreement shall be revoked if it is determined that Property Owner, any successor property owner, or any related member (as those terms are defined in Section 37335.671 of the Ohio Revised Code) has violated the prohibition against entering into this agreement under Division (E) of Section 3735.671 or Section 5709.62 or 5709.63 of the Ohio Revised Code prior to the time prescribed by that division or either of those sections.
- 15) Property Owner affirmatively covenants that it has made no false statements to the State or local political subdivisions in the process of obtaining approval of the Community Reinvestment Area incentives. If any representative of Property Owner has knowingly made a false statement to the State or local political subdivision to obtain the Community Reinvestment Area incentives, Property Owner shall be required to immediately return all benefits received under the Community Reinvestment Area Agreement pursuant to ORC Section 9.66(C)(2) and shall be ineligible for any further economic development assistance from the State, any State agency or a political subdivision pursuant to ORC Section 9.66(C)(1). Any person who provides a false statement to secure economic development assistance may be guilty of falsification, a misdemeanor of the first degree, pursuant to ORC Section 2921.13(D)(1), which is punishable by a fine of not more than \$1,000 and/or a term of imprisonment of not more than six months.
- 16) This agreement is not transferable or assignable without the express, written approval of Willoughby Hills.

IN WITNESS WHEREOF, the City of Willoughby Hills, Ohio, by Mayor Robert Weger, Mayor of the City of Willoughby Hills and pursuant to Ordinance No. _____, has caused this instrument to be executed this (date: _____) day of (month: _____), (year: _____) and Property Owner by (authorized business official: _____) its (title of person: _____) has caused this instrument to be executed on this (date: _____) day of (month: _____), (year: _____).

Robert M. Weger, Mayor, City of Willoughby Hills, OH Dated: _____

By: (_____ Authorized Representative Dated: _____
for Property Owner)

Approved as to Form:

James O'Leary, Law Director, City of Willoughby Hills, OH Dated: _____

Note: A copy of this agreement must be forwarded to the Ohio Development Services Agency within fifteen (15) days of finalization.